

Case No. MJ 14-00030 ^{FILED}
AFFIDAVIT OF PROBABLE CAUSE
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2014 FEB 14 PM 12 47

TO: Chief Judge, duly ~~credentialed~~

U.S. District Court

700 Stewart St.

Seatch 98101

Washington State, USA

STEPHEN HARRIS, CLERK
CHEYENNE

FROM: Paul Andrew Hitcher, B.A., M.S.,
FDC Seatac Reg. No. 44202-086, Unit "EA"

SUBJECT: facts invoking application now
of Johnson v. Zerbst; 44 U.S.C. 3512

Greetings Your Honor:

In the matter of Case No. MJ-14-00030 (SPD,
please accept this AFFIDAVIT documenting
specific acts calling for application of
the decision of the U.S. Supreme Court in
Johnson v. Zerbst, to Unit:

- (1) Assistant Federal Public Defender
Rancy Terney refused to perform one (1)
simple task requested by a Defendant, and
Defendant promptly terminated her
assistance of Counsel: see Sixth Amendment
Defendant and a U.S. Marshal did the task on 6/4/2014.
- (2) Cruel and unusual punishment in
FDC Seatac's Special Housing Unit ("SHU")
deprived Defendant of access to Law
Library: "Inmates housed in the Special
Housing Unit cannot go to the Law Library."
[sic] [emphasis added] - 1 of 4 -

See "FDC SEATAC INMATE ADMISSION AND ORIENTATION HANDBOOK," Dec. 9, 2013, Page 9, under "Legal Assistance."

(3) Defendant declined to sign an Intake Form because it lacked an OMB control number at the upper right-hand corner. BOP's intake Counselor specifically cited Defendant's annotation re: "OMB No." as justification for placing him in the SHU instead of the general population. As such, BOP staff violated the PRA's Public Protection Clause at 44 U.S.C. 3512 i.e. absolute bar to any further judicial or administrative proceedings; here also see 5 USC 3331; and, 5 U.S.C. 2903, 2906 in pari materia;

(4) Defendant drafted hand-written Petition for Habeas Corpus Relief, but Assistant FPD has done nothing to date. She has not prepared that Petition for filing and service, nor as a draft for Defendant's preliminary review and edits & additions. Assistant FPD merely forwards "process" issued by the Court. Defendant mailed a request for additional FPD services on 2/6/2014. FPD does not appear to have adequate procedures or policies to provide effective assistance of Counsel to litigants proceeding *In Forma Pauperis* and/or *In Propria Persona*. FPD was also asked to contact Defendant's

- 2 of 4 -

landlord to learn the status of the contents of Defendant's apartment, but FPD has not replied at all to that specific request.

(5) Defendant also has a utility patent pending for a computer storage device at the U.S. Patent and Trademark Office. Defendant's Personal Computers were hand-built by him, and they are used to test variations and permutations — by way of performing basic research, and storing redundant copies of his patent research database. The loss of any of those custom PCs is too damaging and catastrophic, to contemplate, not to mention the threat of losing that apartment and everything else in it. Defendant has lived there since June 18, 2009.

REMEDY

(6) Defendant therefore sincerely believes that the facts itemized above do fully justify an ORDER to the Office of the U.S. Attorney to show cause why said facts do not violate the Sixth Amendment, and also the Eighth Amendment prohibiting cruel and unusual punishment, and also the PRA's Public Protection Clause: 44 USC 3512 (see next page)

VERIFICATION: 28 U.S.C. 1746

I, Paul Andrew Mitchell, B.A., M.S., hereby verify under penalty of perjury, under the laws of the United States of America, without (outside) the United States (federal government) that the bel. & the above statement of facts and laws is true and correct according to the best of my current information, knowledge and belief, so help me God.

Dated: 2/6/2014

Signed: Paul Andrew Mitchell, Juris

Printed: Paul Andrew Mitchell, B.A., M.S.
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P.S.

Incorporated by reference, as if set forth fully here: the entire case file currently in custody of Federal Public Defender, Seattle, Washington State, USA. See FRER 201(c)(2): mandatory judicial notice (NOT discretionary).

CONCLUSION

As a consequence of several acts, including but not limited to those described above, the U.S. District Court at Seattle appears to have ousted itself of jurisdiction and is barred from any further judicial proceedings. So be it!

- 4 of 4 -

FEDERAL DETENTION CENTER
NAME: Paul Andrew Mitchell
REG: 44202-084 UNIT: E1A
P.O. BOX 13900
SEATTLE, WA. 98198-1090

Case #15.
MJ 14-00030 SPD
(using chosen name)
(please)
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10 FEB 2014 PM 6 L
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TO: Chief Judge
U.S. District Court
700 Stewart St.
Seattle 98101
Washington State, USA



also cf. Brewer v. Wilkinson;
Lemon v. Dugger
(re: "Special Mail")

Case No. MJ 14-00030 JPDREQUEST TO VACATE DECISIONS
AND HEARINGS BY JAMES P. DONOHUE

TO: Chief Judge, duly accredited
 U.S. District Court
 700 Stewart Street
 Seattle 98101
 Washington State, USA

Ref. #14-CR-27-F
 (USDC/DWY)

FROM: Paul Andrew Mitchell, B.A., M.S.
 FDC Seatac Reg. No. 44202-086, Unit "EA"

SUBJECT: James P. Donohue's conflict
of interest and demonstrable bias

Greetings your Honor:
 Start by reviewing Martinez v. Wigner, 771 F.2d 424.
 Please allow me to begin this REQUEST
 by confirming that Mr. James P. Donohue
 has failed to produce any evidence of a
 valid OPM SF-61 APPOINTMENT AFFIDAVITS.
 Moreover, I have made that request
 in writing, which Mr. Donohue did not
 answer, and personally at the Clerk's
 public counter on 6/11/2013. An employee
 of the Clerk's Office replied: "We are not
 going to cooperate with you, Mr. Mitchell."
 Mr. Donohue's signature, as I recall,
 was visible on the "search warrant" [sic]
 to which I objected on 6/11/2013, chiefly
 because I have never had any opportunity.
 Also, in violation of 28 U.S.C. 1691, that
 "search warrant" did not display any

Incorporated by reference in #14-CR-27-F (USDC/DWY)

Deputy

signature of any Clerk or ~~Clerk~~ of Court; it did show a rubber stamp bearing the name of William M. McCool, who has also refused to produce any evidence of a valid OPM SF-61 APPOINTMENT AFFIDAVITS, as required by 5 U.S.C. 2903, 2906, 3331, and the Oath of Office Clause.

Furthermore, Mr. Donohue has manifested bias and apparent prejudice specifically in the "DETENTION ORDER" dated January 31, 2014. For example: Using U.S. v. Callender, 25 F. Cas. 239 (1800) as a guide:

(a) Defendant has made it clear he will not go to the District of Wyoming willingly. Objection: I have no car, no driver's license, and I did have ^{just barely} enough money saved to pay 2 months of rent. Travel is out of the question to such a distant city, as long as I am expected to pay travel costs etc.

(b) Defendant does not believe the Court has authority over him and will not comply with Court Orders. "[sic]"

The record shows I timely challenged jurisdiction & timely objected, and my objection was "noted Pursuant to case law I have already studied under 28 U.S.C. 1691, violations of that law do deprive the Court of jurisdiction in personam. Likewise, Court "orders" are process as that term occurs in Sec. 1691. In point of law, the Court does lack "authority over me" as long as it lacks jurisdiction in personam. 28 U.S.C. 17. 1691.

- 2 of 4 -

(c) "There are no conditions or combination of conditions other than detention that will reasonably assure the appearance of defendant as required in the District of Wyoming." [sic]

Mr. Magistrate's exaggerated and foregone conclusion overlooked the obvious: I can appear in court at preliminary hearings held in Cheyenne, Wyoming, provided I am released on my own recognizance and allowed to prepare my own defense, using the powerful computer resources I have assembled in my apartment.

"House arrest" is another option, provided I be allowed to return to my apartment, as described in the preceding apartment.

I am presently at real risk of LOSS of that apartment and ALL of my personal and professional possessions. Why? Prison.

Was that the REAL reason for the lightning bolt arrest on 1/28/2014, and the cruel and unusual punishment of expediting me NOW-STOP to solitary confinement, orchestrated by lies, defamations and distortions? WHY? Is there a conspiracy to violate rights guaranteed by the Constitution?

- REMEDIES -

The facts above fully justify an ORDER to the OUSA to show cause why (a) Mr. Donohue's rulings & hearings should not be vacated and (b) Defendant should not be released on his own recognizance so that he may prepare his defense to Propria Persona on his own computer.

VERIFICATION: 28 U.S.C. 1746

I, Paul Andrew Mitchell, B.A., M.S.,
 hereby verify under penalty of perjury,
 under the laws of the United States of
 America, without (outside) the United
 States (federal government) that the
 above statement of facts and laws
 is true and correct, according to the
 best of my current information, knowledge,
 and belief, so help me God.

Dated: 2/8/2014

Signed: Paul Andrew Mitchell
 for Propria Persona (NOT "Pro Se")

Printed: Paul Andrew Mitchell, B.A., M.S.
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Authority: *Marthens v. Winner*, 771 F.2d 424 (10th Cir. 1985)
 p.s. "Pro se" in Latin means "For it";
 in English: "se" is a neuter Latin
 pronoun that is inappropriate when
 used to refer to human beings,
 particularly Citizens of ONE OF the States united
 "Quem ad finem sese effrenata iactabit
 audacia." (in Latin)
 To what end will your unbridled
 audacity hurl itself? (in English)

Cicero's Orations against Catiline
See Parnell v. Roanoke here

Case Nos.: MJ 14-00030 JPD

USDC/DWY: 14-CR-27-F

MEMORANDUM OF LAW RE:
CLERK OF COURT IS AN OFFICER

TO: Office of Chief Judge
U.S. District Court
700 Stewart Street
Seattle 98101
Washington State, USA

FROM: Paul Andrew Mitchell, B.A., M.S.,
FDC Seatac Reg. No. 44202-086, Unit "EA"

SUBJECT: laws requiring Clerk's authorized
signature on a valid subpoena

1. Judges and Justices are "officers".
proof: see 5 U.S.C. 2104(a)
2. Clerk of Court is appointed by the District Court. proof: see 28 U.S.C. 751, to wit:
"each district court may appoint a Clerk"
3. Clerk of Court is therefore an "officer" too.
proof: see 5 U.S.C. 2104(a)(1)(B), to wit:
"appointed by a Court of the United States"
4. An "officer" must file a second affidavit
with the oath of office required by 5 U.S.C. 3331.
proof: see 5 U.S.C. 3332: officer affidavit
"no consideration paid for appointment"
5. An "officer" may not be paid until the
affidavit required by 3332 has been filed!
proof: 5 U.S.C. 5507

6. The Court is the legal custodian of all SF-61 APPOINTMENT AFFIDAVITS for Court personnel. proof: 5 U.S.C. 2906, to wit "Court to which the office pertains"
7. Office of Clerk must have legal custody of all SF-61s for all Court officers. proof: 28 U.S.C. 951 (duties of Clerk)
8. If Clerk's Office does not have custody of the SF-61 for the person in the Clerk's position, then 28 U.S.C. 1691 cannot be satisfied: Clerk's authorized signature and the Court's official seal are both required.

Relevant Authorities: In re Simon, 297 F. 942 (2nd Cir. 1924); 28 U.S.C. § 1691, 28 U.S.C. § 1691 (all case law thereunder).

VERIFICATION: 28 U.S.C. 1746

I, Paul Andrew Mitchell, B.A., M.S., hereby ~~verify under penalty of perjury, under the oath~~ of the United States of America, without (outside) the United States (federal government) that the above statement of laws is true and correct, according to the best of my current information, knowledge and belief, so help me God.

Dated: 2/10/2014 A.D.

Signed: Paul Andrew Mitchell, B.A., M.S.

Printed: Paul Andrew Mitchell, Sui Juris
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- 2 of 2 -

FEDERAL DETENTION CENTER
NAME: Paul Andrew Mitchell
REG: 44202-086 UNIT: EA
P.O. BOX 13900
SEATTLE, WA. 98198-1090

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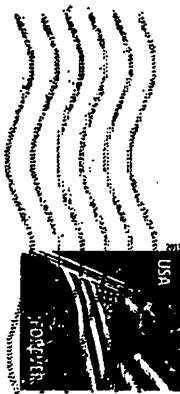
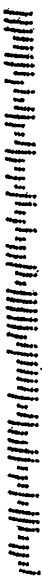
LEGAT

TO: Office of Chief Judge
U.S. District Court

700 Stewart St.

Seattle 98101

Washington State, USA
98101



Please copy and file in docket

14-CR-27-F
(USDC/DWY)

TO: [illegible]

FEDERAL DETENTION CENTER
NAME: Paul Andrew Mitchell
REG: 44202-086 UNIT: EA
P.O. BOX 13900
SEATTLE, WA. 98198-1090

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14-CR-27-F

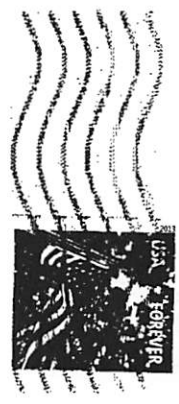
(USDC/Dwy)

Thank you,

THE
FEDERAL
CLERK

FEDERAL DETENTION CENTER
NAME: Paul Andrew Mitchell
REG: 44202-086 UNIT: EA
P.O. BOX 13900
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TO: Office of Chief Judge
U.S. District Court
700 Stewart St.
Seattle 98101
Washington State, USA

Please copy and file in docket

14-CR-27-F

(USDC/DWY)

Thank you.

THE ENCLOSED LETTER WAS RECEIVED FROM THE
PROSECUTOR FOR ECONOMIC CRIMES IN THE
OFFICE OF THE ATTORNEY GENERAL, U.S. DEPT. OF JUSTICE,
WASHINGTON, D.C. 20530. THE LETTER IS FOR THE
ATTORNEY GENERAL, U.S. DEPT. OF JUSTICE,
WASHINGTON, D.C. 20530. THE WRITER ENCLOSED
A COPY OF THE LETTER TO THE ABOVE ADDRESSES.
ENCLOSURE TO THE ABOVE ADDRESSES.

RECEIVED
FEB 14 2014
U.S. DEPT. OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

Case No. MJ 14-00030 JPD

SECOND AFFIDAVIT OF PROBABLE CAUSE

TO: Office of Chief Judge Ref. #14-CR-27-E
U.S. District Court (USDC/DWY)
700 Stewart Street
Seattle 98101
Washington State, USA

FROM: Paul Andrew Mitchell, B.A., M.S.
FDC Seatac Reg. No. 44202-086, Unit "EA"

SUBJECT: ongoing investigation of missing
and/or defective credentials, w/ DOJ

Greetings Your Honor:

Start by reviewing Martinez v. Wiener, 771 F.2d 424 (1985).
In the matter of Case No. MJ-14-00030 (JPD),
please accept this AFFIDAVIT summarizing
the credentialed investigation which the Volder-
signed has been conducting at least since
the year 1996 A.D., with assistance of U.S. DOJ.

In particular, personnel of this Court
have now touched the instant case, but
without having produced a true and
correct copy of the U.S. Office of Personnel
Management Standard Form 61 APPOINTMENT
AFFIDAVITS, expressly required by the Federal
statutes at 5 U.S.C. 2903 (authority to
administer), 2906 (custody) and 3331.

To satisfy the requirements of all reasonable
due diligence, Defendant submitted nearly
identical FOIA Requests to OPM and OMB,
for proof that OPM had complied with
all regulatory requirements, imposed by the

Incorporated by reference in #14-CR-27-E (USDC/DWY)

to discover SF-61s for employees such as U.S. Magistrate Judges, Clerks and Deputy Clerks of Court.

Court employees who have failed or refused to disclose valid SF-61s include, but are not limited to:

- (a) James P. Donohue dba Magistrate
- (b) Brian Tsuchida dba Magistrate
- (c) William M. McCool dba Clerk of Court

In the Executive Branch, and to the best of his memory, Defendant has also used the FOIA to request valid SF-61s for Jerry R. Durkan, OUSA in Seattle; Christopher R. Crofts, OUSA in Cheyenne, Wyoming; and L. Robert Murray, OUSA, Cheyenne, Wyoming.

In the IRS, Defendant used the FOIA to request valid SF-61s for James Marcy and Dave Guest. See *Chrysler Corp. v. Brown*,^{v.}

No SF-61s were produced in Messrs.^{fr.} Donohue, Tsuchida, and McCool!

The SF-61s produced for Durkan, Crofts, Murray, Marcy and Guest all displayed no OMB control number; and, in some cases those "bootleg" requests failed to display any citation to 5 U.S.C. 2903 (authority to administer)

Whenever resorting to a NOTICE AND DEMAND, instead of a FOIA Request, Defendant relies upon the definition of "demand" in Black's Law Dictionary, 6th Edition, whereby "demand" necessarily implies a

rights of some kind. In this context, the SF-61 required by 5 U.S.C. 3331, 3332, 3333 is a legislative implementation of the Oath of Office Clause at Art. VII, Sec. 3, in the Constitution for the United States of America, as lawfully amended.

As such, the Oath of Office on each SF-61 is Defendant's Fundamental Rights. In this context, see Miranda v. Arizona ("rights secured by the Constitution") read Fundamental Rights.

In light of all the above, Defendant is now claiming justification for concluding the following, under 19 Op. Atty. Gen. 219 (1889):

- (a) James P. Donohue cannot sign any orders, nor preside on any hearings;
- (b) Brian Tsuchida cannot sign any orders, nor preside on any hearings;
- (c) William M. McCool cannot put his authorized signature on any "process";
- (d) Jenny M. Durkan cannot represent any government agency before this court;
- (e) Christopher A. Crofts cannot represent any government agency before USDC, DWY;
- (f) L. Robert Murray cannot represent any government agency before USDC, DWY;
- (g) Stephan Harris cannot put his authorized signature on any "process";
- (h) James Malen cannot be an employee of the U.S. Department of the Treasury;
- (i) Dave Brust cannot be an employee of the U.S. Department of the Treasury.

Messrs. Mc Cool & Harris are both claiming to be de jure Clerks of Court who have both touched the instant case. Unfortunately, the absence of valid SF-61s renders both of them unqualified to perform any duties assigned to the Office of Clerk: (a) they cannot maintain custody of any Court records, particularly their own SF-61s, of which they are the legal custodians — or should be the legal custodians — designated as such by 5 U.S.C. 2906; (b) they cannot summon or screen jurors, whether grand juries or petit (trial) juries, whether civil or criminal juries, insofar as neither has executed a valid SF-61 and maintains legal custody of same; and (c) they cannot sign any Court process that satisfies the statute at 28 U.S.C. 1691, because their signatures are not authorized signatures, absent a valid SF-61 that is and remains in the legal custody of the Office of Clerk of Court, pursuant to 5 U.S.C. 2906.

NB: Insofar as personnel claiming to be lawful Clerks and Deputy Clerks do not have legal custody of their own valid SF-61s then the entire Court is rendered totally impotent because it cannot issue any process that satisfies the plain and simple requirements imposed on all "process" by the statute at 28 U.S.C. 1691. This deficiency also exists for "indictments" and "arrest warrants" for the same reason.

Court "orders" and "search warrants" must also comply with Section 1691 *supra*. See case law under 28 U.S.C. 1691 and 28 U.S.C. 1691, all of which case law is ^{almost} unanimous in their holding that violations of Section 1691 result in depriving the Court of jurisdiction in personam. Hence, Defendant's "objection!"

The absence of valid SF-6's for Messrs. Mr. Cool and Harris therefore calls for the conclusions that the so-called "search warrant" executed on 6/11/2013 was void; the so-called "arrest warrant" executed on 1/28/2014 was also void; and the so-called "indictment" stamped 1/15/2014 is likewise void ab initio, for all of the reasons stated *supra*. No lawful Clerk

Similarly, all Court hearings to date, on which either Mr. Donohue or Mr. Asuchida attempted to preside, were null and void, ab initio; and, all rulings and "orders" issued during or after said hearings, were likewise null and void ab initio. See *Carmine v. Bowen, U.S. v. Tweel*, *per*

The panel of federal citizens who attempted to issue the "indictment" in the instant case was not a lawfully convened Federal grand jury nor a lawfully screened grand jury.

This also means that the DOJ personnel who entered the grand jury room, did not attend, or conduct, an "official grand jury proceeding" in the instant case.

Probable Jury Tampering and
Impersonating an Officer of the United States

For all of the reasons already explained above, Messrs Crofts and Murray entered the grand jury room without valid credentials, and thereby perpetrated a fraud upon the panel assembled in that room; moreover, such a fraud also constitutes probable cause that both committed, and conspired to commit, jury tampering and impersonating an officer of the United States. See 18 U.S.C. 912.

Lastly, and more to the merits of any "subpoenas" issued by the panel assembled in the grand jury room in Cheyenne, Wyo. it should now be abundantly clear that it was legally impossible for that panel to issue any valid "subpoenas" insofar as and as long as, no valid OPM Standard Form 61 APPOINTMENT AFFIDAVITS were ever produced for any of the "players" named above; and, insofar as, and as long as, the Office of Clerk of Court in Cheyenne failed to maintain legal custody of valid SF-61s for all Court personnel, no exceptions. See 15 U.S.C. 2906, 3331, 3332, 3333; 44 U.S.C. 3507.

REMEDIES

Defendant therefore sincerely believes that the facts itemized above do fully justify ORDERS to the Office of the U.S. Attorney to show causes why this honorable Court should not take mandatory judicial notice, pursuant to FREV 201(c)(2),

of all records currently in the custody
 of both Clerks of Court in Seattle,
 Washington, and in Cheyenne, Wyoming;
 to show cause why all "orders" issued
 in the instant case should not be vacated;
 to show cause why all hearings conducted
 to date in the instant ^{case} should not be
 declared null and void; to show cause
 why the "search warrant" and "arrest
 warrant" were not both null and void
 ab initio; to show cause why the fate
 of Defendant's private personal and his
 intellectual properties, safe and sound
 as they were between 6/18/2009 and
 6/11/2013, should not be fully disclosed
 to Defendant immediately; to show
 cause why the so-called "subpoenas",
 issued by a panel of federal citizens
 gathered at the Federal Courthouse in
 Cheyenne, Wyoming, should not be
 declared null and void, and quashed
 for that reason; and, to show cause
 why a Civil RICO cross-complaint should
 not commence by naming all of the
 individuals mentioned above as individual
 Co-Defendants under 18 U.S.C. 1964(c),
 and possibly under 18 U.S.C. 241 and 242,
 and 42 U.S.C. 1985 and 1986; and, finally,
 to show cause why the alleged "indictment"
 should not be declared null and void
 ab initio, and why the instant case should
 not be dismissed with prejudice. So be it

VERIFICATION: 28 U.S.C. 1746

I, Paul Andrew Mitchell, B.A., M.S.,
 hereby verify under penalty of perjury
 under the laws of the United States of
 America, without (outside) the United
 States (federal government) that the
 above statement of facts and laws
 is true and correct according to the
 best of my current information, knowledge
 and belief, so help me God.

Dated: 2/7/2014 A.D.

Signed: Paul Andrew Mitchell, *Sui Juris*

Printed: Paul Andrew Mitchell, B.A., M.S.

All Rights Reserved (cf. voc 1-308)

Foundation Authority: U.S. v. Callender, 25 F.Cas. 239 (180

Supplemental authorities: 5 U.S.C. 2903, 2906,
 3331, 3332, 3333; 28 U.S.C. 453, 951; 44 U.S.C. 3507, 3512;

U.S. v. Seesing, 234 F.3d 456 (9th Cir.);

Franks v. Delaware, 438 U.S. 154;

U.S. v. Sanders, 211 F.3d 711;

U.S. v. Bukowski, 435 F.2d 1094 (7th Cir. 1970);

U.S. v. Smyth, 104 F.Supp. 283 (DC Cal. 1952).

* In re Grand Jury Application, 617 F.Supp. 199 (19

Willy v. Coastal Corp., 503 U.S. 131 (1992) re: 18 USC 32

18 U.S.C. 1964(c) (Civil RICO), liberal construction.

** 18 U.S.C. 1504: "Nothing in this section shall
 be construed to prohibit the communication of a
 request to appeal before the grand jury." -- added to
 remove possibility a proper request to appear might be
 construed as a technical 9 of 9 -- violation of this section